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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,841	07/14/2003	Lee R. Guterman	Guterman-1	4346
40518	7590	05/02/2007	EXAMINER	
LEVINE BAGADE HAN LLP 2483 EAST BAYSHORE ROAD, SUITE 100 PALO ALTO, CA 94303			NGUYEN, VI X	
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
05/02/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/618,841	GUTERMAN ET AL.
	Examiner Victor X. Nguyen	Art Unit 3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 February 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 24-32,35-42,48,49,51 and 52 is/are pending in the application.
- 4a) Of the above claim(s) 33,34,43-47 and 50 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 24-32,35-42,48,49,51 and 52 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-32,35-42 ,48-49 and 51-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Fearnout (5,100,423).

Fearnout discloses in figure 8, a medical instrument can be used in the treatment of vascular aneurysm having the limitations as recited in the above listed claims, including: a delivery wire102, an expandable and contracted scaffold 202 positioned at and extended distal beyond the distal end of the delivery wire, where this scaffold can *prevent the escape of embolitic agents from the aneurysm while allowing blood flow through the vessel*, regarding the intended use “*an apparatus for temporarily buttressing a neck of an aneurysm within a vessel wall*”; The statement of intended use and other functional statements have been carefully considered but are deemed not to impose any structure limitations on the claims distinguishable over Fearnout reference which is capable of being used as claimed if one desires to do so, where a catheter 100 defines a lumen which sizes for delivery of the wire therethrough. As to claims 25-28, Fearnout discloses in figure 8, a device having the limitations as described above (see col. 3, lines 40-47, col. 5, lines 23-29). As to claims 29-32, Fearnout discloses in col.5, lines23-29, the scaffold comprises a braid, a mesh or helically wires which spaced from each other as best view in fig.8. As to claims 35-42, Fearnout discloses the scaffold can have a tapered at proximal and

distal end, and where the scaffold can detach from the wire (see col. 2, lines 33-38). As to claims 51, 52, Fearnout discloses that the scaffold 202 is expandable upon distal advancement beyond a distal end of the catheter 100, where the proximal end of the scaffold is tapered into the distal end of the delivery wire at best seen in fig. 8.

Response to Arguments

2. Applicant's arguments filed 2/14/2007 have been considered but are moot in view of new ground(s) of rejections. Applicant is asked to please refer to the modified prior art rejections above where examiner addresses applicant's concerns regarding prior art rejection.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor X Nguyen
Examiner
Art Unit 3734



VN
4/30/2007



MICHAEL J. HAYES
SUPERVISORY PATENT EXAMINER